

August 9, 2001

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **L00P0003**  
Proposed Ordinance No. **2001-0370**

**KINGSGATE 18**  
Preliminary Plat Application

Location: 13218 – 124<sup>th</sup> Avenue Northeast

Applicant: **Dick Van der Peyl**  
Goldstar Properties  
9833 NE 120<sup>th</sup> Place, Ste. A  
Kirkland, WA 98034  
Telephone: (425) 820-6006

King County: Department of Development and Environmental Services,  
Land Use Services Division, *represented by*  
**Kim Claussen**  
900 Oakesdale Avenue SW  
Renton, WA 98055-1219  
Telephone: (206) 296-7167  
Facsimile: (206) 296-6728

**SUMMARY OF RECOMMENDATIONS:**

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Recommendation	Approve, subject to conditions
Complete application:	April 12, 2000

**EXAMINER PROCEEDINGS:**

Hearing Opened:	July 26, 2001
Hearing Closed:	July 26, 2001

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**TIME LIMITS WAIVED:**

The Applicant waived the KCC 20.24.098 deadline for review completion.

**ISSUES/TOPICS ADDRESSED:**

- Access
- King County Road Standards
- Temporary Turnaround
- Easement

**SUMMARY:**

Grants preliminary approval to a proposed subdivision of 3.07 acres into 20 single family residential building lots.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:****1. General information.**

Owner/Developer:	Goldstar Properties Attn. Dick Van der Peyl 9833 NE 120 <sup>th</sup> Pl., Suite A Kirkland, WA 98034 (425) 820-6006
Engineer:	D. R. Strong Consulting Engineers 10604 NE 38 <sup>th</sup> Pl., Suite 101 Kirkland, WA 98033 (425) 827-3063
STR:	21-26-5
Location:	The site is located at the northeast corner of the intersection of 124 <sup>th</sup> Ave. NE and NE 132 <sup>nd</sup> St., Kirkland
Zoning:	R-6 SO
Acreage:	3.07 acres
Number of Lots:	20
Density:	6.5 units per acre
Lot Size:	Ranges from approximately 4,000 to 5,000 square feet
Proposed Use:	Single-family detached dwellings
Sewage Disposal:	Northshore Utility District
Water Supply:	Northshore Utility District
Fire District:	King County District #36
School District:	Lake Washington
Complete Application Date:	April 12, 2000

**2. Proposal.** Goldstar Properties (the “Applicant”), represented by D. R. Strong Consulting

Engineers, propose to subdivide a 3.7 acre parcel in the Kirkland vicinity into 20 single family residential building lots. Three of those lots are obtained through transfer of density credit pursuant to KCC 21A.55. With lot sizes ranges from approximately 4,000 to 5,000 square feet, the proposed density is approximately 6.5 dwelling units per acres.

3. **State Environmental Act.** On July 6, 2001, the Department issued a threshold determination of non-significance pursuant to RCW 43.21C. The Department based this determination on its review of the applicant's checklist and several other relevant environmental documents. The Department's analysis resulted in a conclusion that the property development proposed here would not cause significant adverse impacts on the environment. Therefore, no environmental impact statement was required to be prepared. No person, agency, tribe or other entity appealed that determination. The Department's environmental review of the proposed development is incorporated in this hearing record principally as exhibit no. 1, as well as exhibit nos. 2 through 11.
4. **Department recommendation:** The Department recommends granting preliminary approval to the proposed plat of Kingsgate 18, subject to the conditions of final plat approval stated on pages 6 through 11 of the Department's preliminary report (exhibit no. 2). Copies of that report will be attached to those copies of this report which are transmitted to the Metropolitan King County Council.
5. **Applicant response.** The applicant accepts the Department's recommendation as described in finding no. 4, preceding.
6. **Access concerns.** The subject property is located at the corner of 124<sup>th</sup> Avenue Northeast and Northeast 132<sup>nd</sup> Street; both minor arterials; both scheduled for near term (2003) redevelopment and expansion pursuant to the King County Capital Improvement Program (CIP). On the south boundary the applicant has obtained King County Department of Transportation (KCDOT) and DDES acceptance of a temporary access to Northeast 132<sup>nd</sup> Street. The temporary access will be located approximately 320 feet east from the Northeast 132<sup>nd</sup> Street intersection with 124<sup>th</sup> Avenue Northeast. Thus, its location conflicts with the King County Road Standards (KCRS) for intersection spacing on arterial streets. DDES and KCDOT are willing to accept this variance because the intersection will be temporary, to be terminated upon completion of CIP improvements to Northeast 132<sup>nd</sup> Street. A more detailed and excellent analysis of the access requirements is contained in section I, paragraph 2 of the Department's preliminary report, dated July 26, 2001 (exhibit no. 2).

The permanent access will be located at the northwest corner of the subject property, accessing 124<sup>th</sup> Avenue Northeast. Presently, two other property owners obtain access from 124<sup>th</sup> Northeast at that location share the joint use driveway easement. One of those property owners, Mr. and Mrs. Dat Tan Ho, seek assurance that the driveway will not be obstructed. The Applicant assures them that it will not, and that proposed barricades are intended for the Applicants property, not the Ho property. Mr. and Mrs. Ho seek opportunity to jointly use the proposed long term access street. DDES and the Applicant agree that this would be in their own respective interest as well as the general public interest. Regarding the southern temporary access street, Mr. and Mrs. Ho express the desire to obtain access for an additional five lots, even though road standards to which Kingsgate 18 will be constructed will allow no more than 16 lots. KCDOT representative Aileen McManus cannot offer in the hearing on Kingsgate 18 a

guarantee that KCDOT temporary access permission will be forthcoming for a short subdivision yet to be reviewed. However, she is cautiously optimistic that such temporary permission would be granted on the same grounds that the temporary access itself is allowed.

Regarding the various easement agreements that may be necessary between the parties (including “public” access), the parties agree that such easement agreements must be negotiated to the satisfaction of Ho, DDES and the Applicant. In addition, the Applicant notes, there is yet another party that shares the existing joint use driveway who must be consulted. Although the private easement language must necessarily be negotiated among the parties outside this hearing process, Mr. and Mrs. Ho’s representative is wise to make these concerns a matter of public record at this preliminary stage.

7. **Departmental report adopted.** Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated July 26, 2001, are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner’s report which are submitted to the King County Council.

#### CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

#### DECISION:

The proposed plat of Kingsgate 18 is **GRANTED PRELIMINARY APPROVAL**; subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the

R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services. Additional density has been achieved through KCC 21A.55 Transfer of Density Program. The applicant shall obtain verification of the TDC certificate prior to engineering plan submittal to ensure that the credits are available, otherwise the number of units shall be reduced to base density of the site.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the 1998 King County Surface Water Design Manual (KCSWDM) must also be satisfied during engineering and final review.
  - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual. DDES approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review shall be shown on the engineering plans.
  - c. The following note shall be shown on the final recorded plat:

" All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #\_\_\_\_\_ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."
  - d. Core Requirement No. 2: Off-site Analysis

The applicant's downstream analysis identified two drainage complaints concerning a metal grate on a culvert passing under NE 133<sup>rd</sup> Street. Debris and sediment are accumulating on the upstream side of this grate. The applicant shall clear this debris and sediment as mitigation for increased flows sent to Hazel Creek.

e. Core Requirement No. 3: Flow Control.

Storm water runoff control shall be provided using the Level One flow control criteria outlined in the 1998 KCSWDM. The size of the proposed drainage tracts may have to increase to accommodate the required detention storage volumes and water quality facilities. The runoff control facilities shall be located in a separate tract and dedicated to King County unless portions of the drainage tract are used for required recreation space in accordance with KCC 21A.14.180.

As specified in section 5.1.1 of the 1998 SWM Manual, roof drain storm water shall be infiltrated or dispersed within the lot area if the soil conditions are favorable. Infiltration of storm water for both lot areas and roadway improvements is recommended if determined to be feasible. A geotechnical report shall be provided to evaluate soil conditions, seasonal depth to groundwater, and other design requirements as outlined in the 1998 KCSWDM.

f. Core Requirement No. 8: Water Quality.

The proposed subdivision is subject to the Basic water quality requirements of the 1998 KCSWDM.

g. Special Requirement No. 1: Other Adopted Area-Specific Requirements.

The proposed plat is located within the Northshore Community Plan which contains special P-Suffix conditions related to seasonal clearing restrictions and significant tree retention. The applicable P-suffix requirements shall be addressed on the final engineering plans.

7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:

- a. Prior to submittal of the preliminary plat, the applicant submitted a road variance application (File No. L99V0332), regarding intersection spacing for the plat entrance. The variance received conditional approval on 12/29/99. The road variance shall be utilized only during the interim phase between plat development and completion of CIP road improvements.
- b. The unnamed, internal street shall be improved as an urban, subaccess street with a permanent cul-de-sac located at the south end of the plat.
- c. Tract B shall be designed as a private access tract serving proposed lots #17-20. These lots shall have undivided ownership of the tract and be responsible for its maintenance. A note to this effect shall be shown on the engineering plans and final plat. Improvements shall conform to KCRS 2.03 for urban minor access roads which include 22 feet of paving. The minimum tract width shall be 26 feet with a maximum length of 150 feet.
- d. During the interim phase, a temporary cul-de-sac is required at the north end of the plat. This could be shared with abutting property owner to the north if a temporary easement or written agreement is secured. An alternative would be to construct the temporary cul-de-sac to encroach into Tract A during the interim phase, effectively

reducing the required recreational space during that time. A third possibility would be to request a reconsideration/modification to the existing road variance to forgo the temporary cul-de-sac altogether.

- e. During the interim phase, lot #10 shall be used to provide temporary access to the plat from the existing driveway drop on NE 132<sup>nd</sup> Street. Pavement width shall be 20 feet with access to the permanent cul-de-sac via rolled curb. No curbs, sidewalk or curb returns to the cul-de-sac are required for the temporary access road. To facilitate drainage, the temporary access road shall be sloped in one direction with thickened edge.
- f. Lot #10 shall be encumbered with a public, temporary access easement to allow it to be used for the interim phase entrance. Conditions to remove the easement encumbrance shall include completion of the CIP project, completion of the 124<sup>th</sup> Avenue NE final phase plat entrance, removal of temporary barricades, removal of the interim phase driveway drop to be replaced by full sidewalk on NE 132<sup>nd</sup> Street, removal and restoration of any temporary cul-de-sac and removal of temporary access road on lot #10.
- g. Assurance of the financing for the final phase improvements shall be handled one of two ways. The applicant can pay an amount to be determined and approved during the engineering review phase into the CIP to allow KCDOT to accomplish the modifications, or, post a cash bond for the modifications (separate from the regular performance bond) upon engineering plan approval.
- h. The final phase entrance to the plat shall be located at the northwest corner of the site. The applicant shall dedicate 30 feet of right-of-way per half street standards along the north property line between 124<sup>th</sup> Ave NE and the north/south access road through the site. The applicant shall work with KCDOT to coordinate the centerline profile of this access road. The road shall be built to half street standards to a point where the CIP project will match centerline grade, approximately half way between the east edge of 124<sup>th</sup> Avenue NE right-of-way and right-of-way adjacent to lot #20.

If the applicant can obtain right-of-way from the adjacent property owner to the north, the access road and right-of-way can be centered on the north property line and a subaccess street constructed between 124<sup>th</sup> Avenue NE and the north/south site access road. The access road shall be built to 24 foot pavement width with urban improvements (curb, gutter, and 5 foot sidewalk) on the south side and a 4' gravel shoulder on the north side. The right-of-way width can be minimized in this scenario.

The applicant shall coordinate the centerline plan and profile for the final phase plat entrance with the design of the CIP during engineering review to determine proper slope transition and end of pavement. This design will be reviewed and approved by DDES engineering review staff during the engineering review phase.

- i. During the interim phase a Type III barricade shall be placed at the north end of the internal access street to prevent vehicular traffic from the subdivision in that direction.

- j. Twenty-four feet of right-of-way shall be dedicated along 124<sup>th</sup> Avenue NE. Slope easements will be required on some of the lots that back to 124<sup>th</sup> Avenue NE.
  - k. Twelve feet of right-of-way shall be dedicated along NE 132<sup>nd</sup> Street to provide 42 feet from centerline.
  - l. Street trees shall be included in the design of all road improvements, and shall comply with Section 5.03 of the KCRS.
  - m. Street illumination shall be provided at intersections with an arterial in accordance with KCRS 5.03.
  - n. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
11. There shall be no direct vehicular access to or from 124<sup>th</sup> Ave NE or NE 132<sup>nd</sup> St. from those lots which abut it. A note to this effect shall appear on the engineering plans and final plat.
12. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the face of the final plat.
13. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.). If the requirements of the drainage system (i.e. catch basins, access roads, manhole covers, etc) restrict or reduce the usable recreation area and/or creates a safety hazard, the recreation tract may be required to be reconfigured and/or relocated. This may result in the reconfiguration and/or loss of lots.



- a. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.), shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents. Fencing of the tract adjacent to 124<sup>th</sup> Ave NE and the access road shall be included in the plans to provide additional safety measures.
  - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
14. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
15. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
  - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
  - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
  - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
  - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
  - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
  - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
  - g. The applicant shall contact Metro Service Planning at 684-1622 to determine if 124<sup>th</sup> Ave NE and/or NE 132<sup>nd</sup> St. is on a bus route. If either street is a bus route, the street tree plan shall also be reviewed by Metro.
  - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond

may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

16. The existing structures (homes, garages, outbuildings, etc.) shall be removed prior to recording.

ORDERED this 9th day of August, 2001.

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R. S. Titus, Deputy  
King County Hearing Examiner

TRANSMITTED this 9th day of August, 2001, to the following parties and interested persons:

Roger Dorstad  
16651 NE 79th St.  
Redmond WA 98052

Goldstar Properties  
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Kirkland WA 98034

Prudence Herdman  
14051 127th Pl. NE  
Kirkland WA 98034

Dat T. & Kimhein Ho  
13330 - 124th Avenue NE  
Kirkland WA 98034

Louise Holder  
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MS OAK-DE-0100

Greg Borba  
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Land Use Inspection  
MS OAK-DE-0100

Larry West  
LUSD/SDSS  
Wetland Reviewer  
MS OAK-DE-0100

#### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) ***on or before August 23, 2001.*** If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before August 30, 2001.*** Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE July 26, 2001 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT  
AND ENVIRONMENTAL SERVICES FILE NO: L00P0003

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing and representing the Department was Kim Claussen, Mark Bergam, Aileen McManus. Participating in the hearing and representing the Applicant was Luay Joudeh, Richard Van der Peyl. De-En Lang also participated in this hearing.

- Exhibit No. 1 Department of Development and Environmental Services File No. L00P0003
- Exhibit No. 2 Department of Development and Environmental Services Preliminary report, dated July 26, 2001
- Exhibit No. 3 Application dated February 11, 2000 (April 12, 2000 date of complete application)
- Exhibit No. 4 Environmental Checklist dated February 11, 2000
- Exhibit No. 5 Declaration of Non-significance dated July 6, 2001
- Exhibit No. 6 Affidavit of Posting indicating April 27, 2000 as date of posting and May 1, 2000 as the date the affidavit was received by the Department of Development and Environmental Services. *Notice of Application*
- Exhibit No. 8 Land Use Map 419 E & W, 424 E & W
- Exhibit No. 9 Assessors maps—SE & SW 21-26-5, NW & NE 28-26-5
- Exhibit No. 10 Transfer of Development Credit Certificate dated December 28, 1999
- Exhibit No. 11 Level 1 Drainage Analysis by Baima & Holmberg dated December 8, 1999

RST:slb  
L00P0003 RPT